



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

December 15, 2022

BY ECF

Honorable Jesse M. Furman
United States District Judge
Southern District of New York
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, New York 10007

Re: United States v. Joshua Adam Schulte,
S2 17 Cr. 548 (JMF)

Dear Judge Furman:

The Government respectfully submits this letter to provide the Court with a status report with respect to the Court's Order dated December 12, 2022. (D.E. 979).

Approximately an hour after the Court's Order and the two attached *pro se* letters (which the Government had not previously received) were docketed, the Government emailed the order and letters to legal staff for the Metropolitan Detention Center ("MDC"). The following morning, the Government spoke with MDC legal counsel and was advised that the letters had been provided to MDC's chief psychologist that morning and that the defendant would be seen later that day. The Government also arranged for a teleconference call with both defense counsel and MDC legal staff for later that morning. During the call defense counsel was advised of the steps MDC had taken, and defense counsel requested, *inter alia*, access to the defendant's medical and mental health records, for the defendant to be seen once per week by a psychologist, and for copies of all communications between the Government and the MDC regarding the defendant's medical and mental health issues. The parties also discussed the defendant's ability to request mental health services using the MDC's TRULINC's system, to which the defendant has access for certain limited purposes, including this one. MDC also confirmed that during defense counsel's next visit to the MDC to see the defendant, defense counsel would be given priority access to the SAMs unit attorney visiting room.¹

We have been advised that the defendant was evaluated by a psychologist on the morning of December 13, 2022. A copy of the report from that evaluation (marked "in progress") is

¹ We understand that defense counsel visited the defendant in-person on December 9, 2022, and that defense counsel have met with the defendant in person today during the defendant's production to the courthouse for purposes of reviewing CSAM discovery materials.

attached hereto as Exhibit A, and we respectfully request that it be accepted for filing under seal. As reflected in the report, the defendant denied being suicidal or wanting to die, and a follow-up psychological appointment will be held in the near future. The Government expects that the defendant will continue to receive mental health treatment as indicated by the results of his evaluation and the judgment of mental health staff. If the defendant has any difficulty requesting or receiving mental health services, the Government stands ready to assist in resolving those issues should the need arise.

With respect to defense counsel's requests for access to the defendant's medical records, the Government provided a copy of the December 13, 2022 report to defense counsel in connection with this filing. MDC has requested that, for access to additional inmate medical records, defense counsel provide a HIPAA authorization from the defendant and a Rule 17 subpoena. The Government has consulted with MDC legal staff and the Civil Division of the U.S. Attorney's Office and understands this to be the ordinary practice in this District for counsel access to inmate medical records for use in connection with the underlying criminal proceeding.

With respect to defense counsel's request for copies of all Government communications with MDC legal staff regarding the defendant's medical and mental health issues, the Government has declined that request and the Court has declined to order it. (D.E. 981). There is no disclosure obligation for those communications, which also implicate potential privilege issues. Nor is there any need for such disclosure. There have been, in addition to the conference call held on December 13, 2022 among the Government, MDC legal staff, and defense counsel, a number of email communications in which all three parties have been copied and participated. In the Government's efforts to respond to the Court's orders and concerns and to help facilitate a resolution of issues without the need for Court intervention, the Government may in its discretion find it advisable to communicate directly with defense counsel, to communicate directly with MDC legal staff, or to communicate jointly with both. The Government elects to continue to maintain that discretion.

Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney

by: /s/
David W. Denton, Jr. / Michael D. Lockard
Assistant United States Attorneys
(212) 637-2744 / -2193

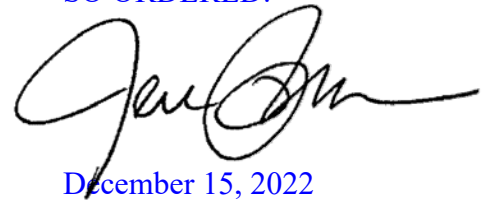
Encl. (request filing under seal)

Cc: Defense counsel of record (by ECF)

The Court thanks the Government for this comprehensive update and counsel on both sides for their efforts in response to Mr. Schulte's letters. The psychological report (which the Court will file and maintain under seal) indicates that Mr. Schulte "reported he is not thinking about a hunger strike or suicidal attempts." It also indicates that he candidly admitted that he "said what [he] said" in his letters to the Court "so [he] could get attention from the media . . . since social media is so quick to broadcast [his] charges."

The Court will not tolerate any further efforts by Mr. Schulte to use this case to conduct a media campaign, let alone to do so by making inflammatory statements that are false or misleading. To that end, and mindful that the Court has broad discretion to reject *pro se* filings made by Mr. Schulte with respect to any matter as to which he has counsel (that is, the entirety of his case other than his post-trial motions), *see* ECF No. 979, Mr. Schulte is cautioned that future *pro se* submissions may not be publicly docketed.

SO ORDERED.

A handwritten signature in black ink, appearing to read "James M. Felt", is written over the date. The signature is fluid and cursive.

December 15, 2022

EXHIBIT A